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OFFICE OF PETITIONS

In re Application of
Alberson et al.
Application No. 10/091,838
Filed: March 6, 2002

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: DECISION DISMISSING PTA
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This letter is in response to APPLICANTS' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 1.705(b)" timely¹ filed on December 6, 2006 requesting that the Office adjust the PTA determination at the time of the notice of allowance from a determination of Zero (0) days to a determination of 525 days.

The request submitted by appellants is **Dismissed**.

Applicants assert that they are entitled to a determination of 525 days at the time of the mailing of the notice of allowance. Applicants assert that the Office delayed 13 days under 37 CFR 1.702(a)(1). Applicants also agree that the Office delayed by a period of six hundred and 664 days for withdrawing the application from issue.² Applicants assert that they delayed by a period of 51 days under 37 CFR 1.704(b) for the submission of the responses filed on March 23, 2004 and April 15, 2003 and 101 days under 37 CFR 1.704(c)(8) with the filing of the IDS on July 25, 2003.

Applicants' arguments as to the delay for withdrawing the application from issue are not deemed persuasive. The Office does not see find any statutory relief under 35 U.S.C. 154 or any regulatory relief under 37 CFR 1.702-1.703 that provide additional patent term for the Office's withdrawal from issuance in this application. The Office notes that applicants do not qualify for any additional time under 37 CFR 1.702(c) and 1.703(c)(1)-(2) because there was no interference declared nor was the application suspended due to an interference under 37 CFR 135(a) not involving the application.

The Office notes that this determination does not include any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b). Moreover, this determination does not include any reductions to patent term adjustment under 37 CFR 1.704(c)(10). These determinations will be included in the final PTA determination that is mailed to applicants in the Issue notification letter and displayed in PAIR.


¹Issue fee was paid on December 6, 2006,

²The Office is unsure whether applicants assert that the withdrawal from issue or the suspension due to an interference proceeding is the basis for the additional patent term adjustment.

The Office has assessed the \$200.00 fee. No additional fees are required in determining this application for PTA.

This applications is being forwarded to the Office of Patent Publication for a prompt issuance of the patent.

Any questions related to this decision can be addressed to Kery Fries at 571-272-7757.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy